

REMARKS

This amendment is in response to the Examiner's office action dated March 24, 2005.

1. Information Disclosure Statement

Applicants acknowledge the signed copy of the IDS from the Examiner.

2. Specification

The Examiner has objected to the abstract because it is not commensurate with the scope of the claimed invention (Office Action, p. 2). Applicants respectfully traverse and submit that in light of the current amendments, the abstract is proper.

The Examiner has objected to the specification for including blank spaces on page 49. Applicants have amended this paragraph and submit that the specification is now in proper form.

3. Claim Objections

The Examiner objects to claims 2 and 3 stating that a comma should be inserted before "wherein". Applicant assumes the Examiner refers to claims 3 and 4, and those claims have been amended accordingly. The Examiner objects to claims 5, 6, 7 and 8 because of informalities. Applicant thanks Examiner for the suggested changes. The claims have been amended and Applicant respectfully requests reconsideration.

4. Claim Rejections – 35 U.S.C. § 102/103

The Examiner rejects claims 1-8 as being anticipated by or obvious over Freestone (US Pat No. 6,326,529; hereinafter the '529 patent). Applicant respectfully traverses. Applicant would like to point out several important differences between Soybean Variety XB19U04 and 92B63.

XB19U04 has a maturity group of 1 and a subgroup of 9 as taught on page 12 of the specification on lines 8-9. 92B63 has a maturity group of 2 and a subgroup of 6, as

disclosed in the patent referenced by the Examiner at in Table 1. This represents a large difference in maturity which enable these varieties to be grown in different geographic areas, as further evidenced by the different areas of adaptation described for these varieties. For example, the earlier maturity of XB19U04 makes it well adapted for use in Canada, which is not the case for 92B63.

In addition, XB19U04 is highly resistant to SCN race 3, as taught on page 12 and in Table 1 of the instant application. 92B63 is susceptible to SCN race 3, as described in Table 1 of the '529 patent.

Another key difference between these varieties is in iron chlorosis tolerance. XB19U04 has a very poor tolerance of iron chlorosis, as evidenced by the score of 2 listed in Table 1 of the specification. A score of "1" indicates a plant is dead or dying and a score of 9 means no stunting or yellowing is noted (as is defined in the specification on page 5). In contrast, 92B63 displays average tolerance to iron chlorosis, listed in Table 1 of the '529 patent.

Also, XB19U04 is resistant to glyphosate as taught on page 12 and Table 1 of the specification. 92B63 is not resistant to glyphosate.

In summary, XB19U04 and 92B63 differ with respect to maturity, SCN tolerance, iron chlorosis tolerance, and glyphosate resistance. Therefore, applicants respectfully assert that the soybean variety of the instant application and 92B63 are not identical and differ much more than minor morphological variation. Applicants respectfully request reconsideration.

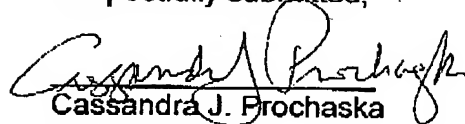
CONCLUSION

In conclusion, Applicant submits in light of the above amendments and remarks, the claims as amended are in a condition for allowance, and reconsideration is respectfully requested. If it is felt that it would aid in prosecution, the Examiner is invited to contact the undersigned at the number indicated to discuss any outstanding issues.

No fees or extensions of time are believed to be due in connection with this amendment; however, consider this a request for any extension inadvertently omitted, and charge any additional fees to Deposit Account No. 16-1856.

Reconsideration and allowance is respectfully requested.

Respectfully submitted,


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